

HEIRS OF SEGUNDO UBERAS, NAMELY: NIEVES UBERAS, FLORENCIA UBERAS, MANUEL UBERAS, ROLANDO UBERAS, ESTER UBERAS, JOSE UBERAS, JR., ZENaida UBERAS, YOLANDA UBERAS, CECILIA UBERAS,...

G.R. No. L-48268. October 30, 1978

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court sets aside respondent court's order dismissing the complaint below on the ground of prescription and remands the case for trial and determination on the merits, in the light of factual averments in the complaint which if duly established at the trial would clearly rule out the defense of prescription and of other material averments that have to be inquired into and resolved on the basis of evidence adduced by the parties which in turn will determine the legal precepts that should be applied in law and equity.

Petitioners as plaintiffs below had filed on November 3, 1977 a verified complaint against respondents as defendants in the Negros Occidental court of first instance for "quieting of title, recovery of possession and ownership, partition, (and) reconveyance with damages" of the property subject-matter of the suit. Their complaint was summarized by respondent court in the appealed order of February 15, 1978 dismissing the complaint on the ground of prescription, as follows:

"Defendants seek to dismiss the present complaint on the ground that the action is barred by prescription.

"Plaintiffs maintain that the action is imprescriptible because it is one for partition and to quiet title to the property in question, declaring the declaration of heirship and deed of sale executed by defendants to be null and void ab initio.

"On the basis of the allegations of the complaint, it is averred that upon the death of the spouses Juan Uberas and Dominga Mendoza in 1929 and 1930, respectively, they were survived by five (5) legitimate children, namely, Segundo, Albino, Francisca, Pedro and Alejandra, all surnamed Uberas, the first four (4) already deceased but in turn survived or succeeded by their children and grandchildren, leaving a parcel of land with an area of 922 square meters situated in Bacolod City, covered by Transfer Certificate of Title No. RT-1976 (156) issued on March 16, 1917 in the name of aforesaid Juan Uberas, married to Dominga Mendoza. The plaintiffs are the children and successors in interest of Segundo Uberas and Albino Uberas, while the defendants are the surviving spouse, Soledad Rapiz, and the children of Pedro Uberas, as well as Alejandra Uberas who is impleaded as an unwilling co-plaintiff. Plaintiffs claim that they and the defendants as well as their predecessors in interest are co-owners of the property in question which they acquired by right of inheritance upon the death of the spouses Juan Uberas and Dominga Mendoza; that sometime in 1964 Pedro

Uberas, when still alive, together with his wife, defendant Soledad Rapiz, and their children, by means of fraud and deceit, persuaded his sister, Alejandra Uberas, to join them in signing a declaration of heirship, stating falsely that Pedro Uberas and Alejandra Uberas were the only heirs of the deceased spouses Juan Uberas and Dominga Mendoza and adjudicating unto themselves the whole property in question to the prejudice and exclusion of their two (2) brothers, Segundo Uberas and Albino Uberas, as well as their sister Francisca Uberas, the latter having died without issue (paragraph 9, complaint); that as a result of the execution of this declaration of heirship Transfer Certificate of Title No. RT-1976 (156) in the name of Juan Uberas, married to Dominga Mendoza, was cancelled and Transfer Certificate of Title No. T-31151 issued on December 2, 1966 was issued in the names of the deceased defendant Pedro Uberas and the defendant Alejandra Uberas, one-half (1/2) share for each; that as part of their continuing malicious and illegal scheme, Pedro Uberas and Soledad Rapiz, as well as their children, caused Alejandra Uberas to sign a deed of absolute sale of her undivided one-half (1/2) portion of the lot in question in favor of Pedro Uberas, married to Soledad Rapiz, dated November 29, 1966 for Five Thousand Pesos (P5,000.00), and as a consequence Transfer Certificate of Title No. T-31151 was cancelled and Transfer Certificate of Title No. 31315 was issued solely in the name of Pedro Uberas, married to Soledad Rapiz, on January 7, 1967; that thereafter Pedro Uberas and Soledad Rapiz maliciously induced their sister Alejandra Uberas to sign a general power of attorney in favor of their son, Wilfredo Uberas, with authority to sell or encumber the property dated December 6, 1973; that aforesaid Alejandra Uberas signed the declaration of heirship, the deed of sale and the general power of attorney by reason of fraud, deceit, misrepresentation and undue influence exerted upon her by Pedro Uberas and Soledad Rapiz, and that by reason of aforesaid fraudulent acts and malicious scheme the compulsory heirs of Juan Uberas and Dominga Mendoza were therefore deprived of their legitimate shares in the property, namely: one-fourth (1/4) undivided share for the heirs of Segundo Uberas; and one-fourth (1/4) share for the heirs of Albino Uberas, claiming that Transfer Certificate of Title No. 31151, the deed of sale and the general power of attorney are null and void ab initio and asking that defendant be ordered to reconvey the share corresponding to the heirs of Segundo Uberas and Albino Uberas (paragraphs 11, 12, 13, 14, 15, 17, 18 and 19, complaint). Finally, it is claimed that plaintiffs learned for the first time of the malicious and illegal acts of the defendants only in the year 1977 after Soledad Rapiz and her children had claimed sole ownership and possession of the entire property, and upon verification from the office of the Register of Deeds that the declaration of heirship was annotated on the certificate of title.

"At the back of Transfer Certificate of Title No. RT-1976 (156), which is Annex 'A' of the complaint, the execution of the declaration of heirship appears annotated as Entry No. 34845 by Pedro Uberas and Alejandra Uberas to the effect that both declared themselves as the only heirs of the deceased spouses Juan Uberas and Dominga Mendoza, who both died leaving no debts and obligations, adjudicating unto themselves the property in question. The declaration of heirship is dated April 7, 1964 and registered on December 2, 1966."

As already indicated, respondent court in its questioned order, dismissed the complaint on the ground that it was barred by prescription "as more than ten (10) years had elapsed counted from the registration of the extrajudicial declaration of heirship on December 2, 1966 and the issuance of Transfer Certificate of Title No. T-31151 solely in the names of Pedro Uberas and Alejandra Uberas issued on the same date, the present complaint having been filed only on November 3, 1977." Respondent court reasoned out the dismissal, as follows:

"While it is true that the complaint is entitled as one for 'Quieting of Title, Recovery of Ownership, Partition and Reconveyance with Damages', there is no doubt that essentially the cause of action is one for reconveyance based upon a constructive or implied trust resulting from fraud. It cannot be considered as an action for partition among co-heirs which does not prescribe. A true action for partition indeed does not prescribe as long as none of the co-heirs repudiate the co-ownership and claim the entire property under an adverse title.

(Cordova vs. Cordova, L-9936; Jan. 14, 1948). In the instant case, plaintiffs aver that Pedro Uberas and Alejandra Uberas executed the declaration of heirship with malice and bad faith, by means of fraud and deceit to deprive the compulsory heirs, thereby excluding the plaintiffs from the estate of the deceased and setting up title adverse to them. Hence, the present action is primarily to annul the declaration of heirship and the deed of sale on the ground of fraud. For this same reason, the doctrine that an action of partition among co-heirs does not prescribe finds no application. Nor can the present action be considered really as one to quiet title as there is nothing in the allegations of the complaint to show that the titles of the predecessors in interest of the plaintiffs were ever under a cloud. Even granting that the action is one to remove a cloud over the title, the same is not imprescriptible because to clear up the cloud and recover the title to the property which is the ultimate objective of the plaintiffs, it is essential that 'they must need first travel the road of relief on the ground of fraud.' (See Mauricio vs. Villanueva, et al., G.R. No. L-11072, Sept. 24, 1959). The extrajudicial declaration as well as the deed of sale and the Certificate of Title No. T-31315 are not void ab initio, for they do not fall under any of the void and inexistent contracts enumerated under Article 1409, Civil Code. Unquestionably, those documents are invalid insofar as they affect the legitimate shares pertaining to the heirs of Segundo Uberas and Albino Uberas in the property in question. That they are fraudulent there can be no question. Hence, it is necessary to maintain an action to set them aside on the ground of fraud.

"But the action is barred by prescription. For when land passes by succession to any person and he causes the legal title to be put in the name of another, a trust is established by implication of law for the benefit of the true owner. (Art. 1451, New Civil Code). Also, if properties are acquired thru mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes. (Art. 1456, New Civil Code). The acts attributed to the deceased Pedro Uberas and defendant Alejandro Uberas in having executed the extrajudicial declaration of heirship, falsely representing therein that they were the sole heirs of the deceased Juan Uberas and Dominga Mendoza and adjudicating unto themselves the entire property for which a separate certificate of title was issued in their names, which cancelled the transfer certificate of title originally issued in the name of Juan Uberas, thereby excluding plaintiffs from their share in the property, constituted a breach of an implied trust resulting from fraud. The subsequent execution of the deed of absolute sale by Alejandra Uberas in favor of Pedro Uberas conveying her one-half (1/2) portion over the property with consequent issuance of Transfer Certificate of Title No. 31315 solely in the name of Pedro Uberas, and the general power of attorney extended by Alejandra Uberas in favor of Wilfredo Uberas, son of Pedro Uberas and Soledad Rapiz, with authority to sell or encumber the entire property, are parts of a continuing breach of trust allegedly committed by defendants for they merely confirmed the fraudulent execution of the declaration of heirship and the cancellation of Transfer Certificate of Title No. RT-1976 (156) in the name of Juan Uberas. Therefore, plaintiffs' cause of action for reconveyance based on breach of trust resulting from fraud must be deemed to have accrued when the declaration of heirship dated April 7, 1964 was annotated on Transfer Certificate of Title No. RT-1976 (156) on December 2, 1966 because the discovery of the fraud is deemed to have taken place when the instrument is filed with the Register of Deeds and a new title issued in the name of the trustee as where a deed of extrajudicial settlement executed in fraud of some heirs is duly registered which then serves as constructive notice to the whole world. (Diaz vs. Gorricho, L-11229, March 29, 1958; J.M. Tuason & Co., Inc. vs. Magdangal, L-15539, Jan. 30, 1962)."

Reconsideration of the dismissal order having been denied by respondent court, petitioners filed the present petition for review, and upon receipt of respondents' comment, the Court resolved to declare the case submitted for decision in view of the clear issues raised which require the remand of the case for trial and determination on the merits.

Respondent court manifestly failed to take into account the averments of petitioners' complaint that they "and defendants are co-owners and possessors of the property" and that "the malicious and illegal acts committed by defendants were known to the plaintiffs only during this year 1977, after Soledad Rapiz and her children were

already claiming full ownership and possession of the whole of the property," as set forth specifically in paragraph 20 of their complaint below.[1] Respondent court could not peremptorily disregard this averment without trial and receiving the parties' proofs. It is obvious that if such averment be duly established at the trial by petitioners-plaintiffs, the period for prescription, even under respondent court's theory of the case in its order, would only have commenced in 1977 and prescription could not lie.

The teaching of *Faja vs. Court of Appeals*[2] that an action to quiet title to property in the possession of plaintiff is imprescriptible and that where there are material facts to be inquired into and resolved on the basis of evidence adduced by the parties which will determine the legal precepts to be applied, as in this case, the complaining party should be given full opportunity to prove his case is fully applicable here, *mutatis mutandis* although in *Faja* the court peremptorily dismissed the complaint by summary judgment, while respondent court herein likewise summarily dismissed the complaint on the alleged ground of prescription notwithstanding contrary factual averments in the complaint which would clearly rule out prescription.

As stressed therein by the Court "(T)he demands of a fair, impartial, and wise administration of justice call for a faithful adherence to legal precepts on procedure which ensure to litigants the opportunity to present their evidence and secure a ruling on all the issues presented in the respective pleadings. 'Shortcuts' in judicial processes are to be avoided where they impede rather than promote a judicious dispensation of justice." [3]

Respondent court issued its dismissal order based on prescription on the basis of its theory that "essentially the cause of action is one for reconveyance based upon a constructive or implied trust resulting from fraud." Without any evidence in the record, the Court cannot put its imprimatur on such a peremptory dismissal in the light of the pleas of the petitioners-plaintiffs to justly share in the inheritance and partition of their common predecessor's estate and respondent court's observation in its questioned order that "Unquestionably, those documents [the extrajudicial declaration whereby the two brothers succeeded by petitioners were deprived by their own brother and sister (succeeded by respondents) of one-half of their just inheritance] are invalid insofar as they affect the legitimate shares pertaining to the heirs of Segundo Uteras and Albino Uteras in the property in question. That they are fraudulent, there can be no question." Considering that petitioners have sought redress from the courts also in equity, it is but fair and just that without any prejudgment of the issues, the parties be allowed to prove their respective contentions in a full blown trial and the manner and extent of the fraud allegedly inflicted upon petitioners be allowed to be fully proven therein, since equity does not permit that manifest wrong and injustice be inflicted upon innocent parties.[4]

ACCORDINGLY, respondent court's order of dismissal is hereby set aside and the case is remanded to respondent court for trial and determination on the merits. With costs against private respondents jointly and severally.

Makasiar, Muñoz Palma, Fernandez, and Guerrero, JJ., concur.

[1] Paragraph 20 of the Complaint, Annex A of the petition, avers: "20. That since the plaintiffs and defendants are co-owners and possessors of the property under Annex 'A' of the foregoing Complaint, the malicious and illegal acts committed by defendants were known to the plaintiffs only during this year 1977, after Soledad Rapiz and her Children were already claiming full ownership and possession of the whole of the property under Annex 'A' hereof, and upon verification from the Office of the Register of Deeds of Bacolod City and the City Assessor, the plaintiffs have known for the first time said malicious and illegal acts of the defendants, in said Declaration of Heirship annotated in TCT No. RT-1976 (156) as well as in Annexes 'B', 'C', 'D' and 'E' hereof."

[2] 75 SCRA 441, 446 (1977), per Muñoz Palma, J.

[3] Idem, at p. 448.

[4] Cf. Cristobal vs. Melchor, 78 SCRA 175, per Muñoz Palma, J.

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